

EXHIBIT A

KBM

Designation List Report



Brown, Karen

2014-04-23

Defense	00:53:36
Plaintiff	00:16:18
TOTAL RUN TIME	01:09:55



Documents linked to video:

655
658
670
674
677
683
684
686
690
693
695
697
698
700
701
P338
P860
P861



KBM

DESIGNATION	SOURCE	DURATION	ID
15:06 - 15:08	Brown, Karen 2014-04-23 15:06 KAREN BROWN, after having been 15:07 duly sworn, was examined and testified 15:08 as follows:	00:00:06	KBM.1
15:17 - 15:19	Brown, Karen 2014-04-23 15:17 Could you, please, state your 15:18 full name and current address for the record? 15:19 A. Karen Huter Brown	00:00:07	KBM.2
21:03 - 21:11	Brown, Karen 2014-04-23 21:03 Q. Are you currently employed, Ms. 21:04 Brown? 21:05 A. No. 21:06 Q. What was your last employment? 21:07 A. Food Marketing Institute. I 21:08 retired on January 30, 2009. 21:09 Q. How long were you employed by 21:10 the Food Marketing Institute? 21:11 A. 40 years.	00:00:17	KBM.3
21:12 - 21:25	Brown, Karen 2014-04-23 21:12 Q. And what was your position at 21:13 FMI when you retired? 21:14 A. I was a senior vice president. 21:15 Q. What were your responsibilities 21:16 in that role as senior vice president? 21:17 A. I had an eclectic portfolio 21:18 that included marketing and communications, 21:19 food safety membership, issues management, 21:20 crisis management. 21:21 Q. Did it include animal welfare? 21:22 A. As an issue, yes. 21:23 Q. How long had you been in -- did 21:24 you hold the role of senior vice president at 21:25 FMI?	00:00:38	KBM.179
22:02 - 22:25	Brown, Karen 2014-04-23 22:02 A. I don't recall. Mid '90s. 22:03 Q. And what did you do for FMI 22:04 prior to becoming senior vice president? 22:05 A. I was vice president. 22:06 Q. Were your responsibilities	00:01:02	KBM.4

KBM

DESIGNATION	SOURCE	DURATION	ID
	22:07 substantially similar to those you held as		
	22:08 senior vice president?		
	22:09 A. No.		
	22:10 Q. What did you do as vice		
	22:11 president?		
	22:12 A. I was vice president of		
	22:13 communications. Prior to that, I was vice		
	22:14 president of consumer affairs.		
	22:15 Q. And those roles ended in the		
	22:16 early 1990s?		
	22:17 A. No. I was vice president of		
	22:18 consumer affairs until '81, and I was vice		
	22:19 president of communications until I became a		
	22:20 senior VP.		
	22:21 Q. And that was in the early '90s?		
	22:22 A. I think.		
	22:23 Q. In your -- over the course of		
	22:24 your 40-year employment with FMI, did you		
	22:25 have regular contact with FMI's members?		
23:03 - 23:03	Brown, Karen 2014-04-23	00:00:01	KBM.5
	23:03 THE WITNESS: Yes.		
23:11 - 23:23	Brown, Karen 2014-04-23	00:00:18	KBM.6
	23:11 Q. Well, did you attend meetings		
	23:12 with them?		
	23:13 A. Yes.		
	23:14 Q. And did you attend industry		
	23:15 functions with them?		
	23:16 A. Yes.		
	23:17 Q. Did you talk to them on the		
	23:18 phone?		
	23:19 A. Yes.		
	23:20 Q. Did you acquire a working		
	23:21 knowledge of the retail food business through		
	23:22 that contact and during the course of your		
	23:23 employment with FMI?		
24:02 - 24:04	Brown, Karen 2014-04-23	00:00:05	KBM.7
	24:02 THE WITNESS: My knowledge about		
	24:03 the retail food industry came from		
	24:04 many sources.		

KBM

DESIGNATION	SOURCE	DURATION	ID
24:07 - 24:11	Brown, Karen 2014-04-23 24:07 A. Research, education, colleagues 24:08 in -- within FMI, visiting stores, talking 24:09 with members about issues that they were 24:10 concerned about, that FMI could help them 24:11 with.	00:00:18	KBM.8
24:12 - 24:17	Brown, Karen 2014-04-23 24:12 Q. Through all of those things and 24:13 your contact with FMI's members, did you gain 24:14 an understanding as to how their businesses 24:15 operated? 24:16 A. Individually, no. In general, 24:17 yes.	00:00:13	KBM.178
25:08 - 25:13	Brown, Karen 2014-04-23 25:08 Q. Through the course of 25:09 your employment at FMI and the contact that 25:10 you had with the members that you just 25:11 described during that employment, did you 25:12 gain an understanding of the concerns they 25:13 had about what was going on in the industry?	00:00:12	KBM.9
25:16 - 25:19	Brown, Karen 2014-04-23 25:16 THE WITNESS: Mainly the 25:17 concerns that they shared with me were 25:18 concerns that related to their 25:19 customers.	00:00:06	KBM.10
25:21 - 25:22	Brown, Karen 2014-04-23 25:21 Q. Did you gain an understanding 25:22 of their concerns about animal welfare?	00:00:04	KBM.11
25:25 - 26:03	Brown, Karen 2014-04-23 25:25 THE WITNESS: From the 26:01 26:02 standpoint as an issue that was 26:03 affecting their customers, yes.	00:00:05	KBM.12
26:05 - 26:06	Brown, Karen 2014-04-23 26:05 Q. What about as an issue that was 26:06 affecting their businesses?	00:00:03	KBM.14
26:08 - 26:10	Brown, Karen 2014-04-23 26:08 THE WITNESS: They were most	00:00:05	KBM.15

KBM

DESIGNATION	SOURCE	DURATION	ID
	26:09 concerned about how it was affecting 26:10 their customers.		
26:12 - 26:18	Brown, Karen 2014-04-23	00:00:26	KBM.16
	26:12 Q. Why?		
	26:13 A. They were not -- they were not		
	26:14 experiencing -- they had some letters from		
	26:15 PETA that they had received, and that		
	26:16 concerned them as to how to answer it, and		
	26:17 how it would affect what PETA's actions may		
	26:18 have contributed to their own public image.		
28:13 - 28:15	Brown, Karen 2014-04-23	00:00:08	KBM.17
	28:13 My question to you is, when you		
	28:14 say "their own public image," you're talking		
	28:15 about the public image of your members?		
28:18 - 28:19	Brown, Karen 2014-04-23	00:00:03	KBM.18
	28:18 THE WITNESS: Correct. The		
	28:19 industry as a whole.		
28:21 - 28:24	Brown, Karen 2014-04-23	00:00:05	KBM.19
	28:21 Q. When you say "the industry,"		
	28:22 what industry are you referring to?		
	28:23 A. I'm talking about the		
	28:24 supermarket industry.		
29:03 - 29:14	Brown, Karen 2014-04-23	00:00:42	KBM.20
	29:03 Who were FMI's members?		
	29:04 A. FMI's members were large		
	29:05 chains, regional chains, small companies,		
	29:06 independent operators, cooperative		
	29:07 wholesalers and voluntary wholesalers.		
	29:08 Q. In what industry?		
	29:09 A. The supermarket industry.		
	29:10 Q. Now, through your contact with		
	29:11 FMI's members over the 40 years that you were		
	29:12 employed by FMI, did you gain an		
	29:13 understanding of those member's views on		
	29:14 animal welfare?		
29:16 - 29:20	Brown, Karen 2014-04-23	00:00:23	KBM.21
	29:16 THE WITNESS: Animal welfare was		
	29:17 a fairly new issue. It did not span		
	29:18 40 years. The issue became a public		

KBM

DESIGNATION	SOURCE	DURATION	ID
	29:19 issue for food retail in general in		
	29:20 the late '90s, beginning of 2000.		
29:22 - 30:02	Brown, Karen 2014-04-23	00:00:13	KBM.22
	29:22 Q. And once it became an issue for		
	29:23 FMI's members, in the course of your		
	29:24 employment at FMI, did you gain an		
	29:25 understanding of those members' views on		
	30:01		
	30:02 animal welfare?		
30:07 - 30:15	Brown, Karen 2014-04-23	00:00:29	KBM.23
	30:07 A. They didn't really express		
	30:08 their views. They were looking to FMI to		
	30:09 help them approach the issue in a way that		
	30:10 would enhance or improve the humane handling		
	30:11 of farm animals.		
	30:12 Q. And what was your understanding		
	30:13 as to why those members were looking to FMI		
	30:14 to help them approach the animal welfare		
	30:15 issue?		
30:18 - 30:25	Brown, Karen 2014-04-23	00:00:34	KBM.24
	30:18 THE WITNESS: They had an		
	30:19 example from the quick serve industry		
	30:20 where the animal rights organizations		
	30:21 were attacking them publicly and		
	30:22 asking them to take specific actions.		
	30:23 The response of some of the members of		
	30:24 the quick serve industry was to come		
	30:25 up with specific guidelines that they		
31:02 - 31:20	Brown, Karen 2014-04-23	00:01:07	KBM.25
	31:02 as an individual company, I'm not		
	31:03 talking about the supermarket industry		
	31:04 now, I'm talking about the quick serve		
	31:05 restaurant industry, to come up with		
	31:06 specific actions that would enhance		
	31:07 the humane handling of farm animals,		
	31:08 particularly in the area of space		
	31:09 allocation. Because there were many		
	31:10 different proposals or requirements by		
	31:11 individual companies in the quick		

KBM

DESIGNATION	SOURCE	DURATION	ID
	31:12 serve industry, the supermarket		
	31:13 industry at that time was under the		
	31:14 radar, and they felt that it would be		
	31:15 a better approach to try to get ahead		
	31:16 of the issue in a way that would		
	31:17 improve humane handling and also give		
	31:18 them a story they could tell their		
	31:19 customers about what they were doing		
	31:20 in the area of humane handling.		
32:05 - 32:21	Brown, Karen 2014-04-23	00:00:58	KBM.26
	32:05 Q. Do you have an understanding of		
	32:06 why they wanted to get ahead of the issue?		
	32:07 A. They certainly wanted to be		
	32:08 able to have an approach that was going to		
	32:09 enhance the humane handling of animals and to		
	32:10 be able to publicize what their approach was		
	32:11 going to be so that their customers would		
	32:12 know what their involvement was. There were		
	32:13 public campaigns being undertaken, executed		
	32:14 against the members of the quick serve		
	32:15 industry by PETA and other animal rights		
	32:16 organizations, and that's a very		
	32:17 uncomfortable position for a company to be		
	32:18 in, and it makes it difficult for them to		
	32:19 tell their own story and play catch up.		
	32:20 Q. And was that what was happening		
	32:21 to your members?		
32:23 - 32:25	Brown, Karen 2014-04-23	00:00:04	KBM.27
	32:23 THE WITNESS: Our members were		
	32:24 not at that point on the -- being		
	32:25 attacked.		
33:03 - 33:03	Brown, Karen 2014-04-23	00:00:02	KBM.28
	33:03 Q. But they wanted to avoid that?		
33:06 - 33:06	Brown, Karen 2014-04-23	00:00:01	KBM.29
	33:06 THE WITNESS: Yes.		
33:08 - 33:23	Brown, Karen 2014-04-23	00:00:38	KBM.30
	33:08 Q. You mentioned before, you said		
	33:09 "particularly in the area of space		
	33:10 allocation."		

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DESIGNATION	SOURCE	DURATION	ID
	33:11 A. Correct.		
	33:12 Q. What was it about space		
	33:13 allocation that made that a focus for your		
	33:14 members?		
	33:15 A. It wasn't that it was the		
	33:16 focus. But it was the -- it was the -- one		
	33:17 of the issues that was front and center from		
	33:18 the standpoint of the animal rights		
	33:19 organizations. They were concerned about		
	33:20 gestation stalls with pregnant sows. They		
	33:21 were concerned about space in the egg laying		
	33:22 industry from the standpoint of the cages		
	33:23 that the chickens were being raised in.		
34:06 - 34:13	Brown, Karen 2014-04-23	00:00:22	KBM.31
	34:06 Q. Did it have an animal welfare		
	34:07 program as of the time you departed in 2009?		
	34:08 A. It had established a program,		
	34:09 yes.		
	34:10 Q. When did FMI first become		
	34:11 involved in animal welfare?		
	34:12 A. In my recollection, the end of		
	34:13 2000.		
41:09 - 41:25	Brown, Karen 2014-04-23	00:00:48	KBM.32
	41:09 Q. Why did FMI create an		
	41:10 animal welfare program?		
	41:11 A. FMI created an animal welfare		
	41:12 program because it wanted to enhance the		
	41:13 humane handling of farm animals.		
	41:14 Q. I'd like to direct your		
	41:15 attention to a -- to the first page of this		
	41:16 document that's been marked as Brown-2. If		
	41:17 you could look at the third paragraph. It		
	41:18 reads, "In 2000, animal rights organizations		
	41:19 began to demand that individual restaurant		
	41:20 chain companies force their suppliers to		
	41:21 follow specific animal welfare guidelines		
	41:22 developed by activist organizations."		
	41:23 Is that an accurate statement,		
	41:24 Ms. Brown?		
	41:25 A. Yes.		

KBM

DESIGNATION	SOURCE	DURATION	ID
41:14 - 41:25	Brown, Karen 2014-04-23	00:00:30	KBM.177
41:14	Q. I'd like to direct your		
41:15	attention to a -- to the first page of this		
41:16	document that's been marked as Brown-2. If		
41:17	you could look at the third paragraph. It		
41:18	reads, "In 2000, animal rights organizations		
41:19	began to demand that individual restaurant		
41:20	chain companies force their suppliers to		
41:21	follow specific animal welfare guidelines		
41:22	developed by activist organizations."		
41:23	Is that an accurate statement,		
41:24	Ms. Brown?		
41:25	A. Yes.		
42:02 - 42:16	Brown, Karen 2014-04-23	00:00:33	KBM.33
42:02	Q. And then I'd like you to turn		
42:03	now to the next page, page 656. I'd like to		
42:04	direct your attention to the last sentence of		
42:05	the partial paragraph that begins that page.		
42:06	The sentence reads, "Believing their tactics		
42:07	were achieving success, the activists began		
42:08	to approach supermarket chains in the USA,		
42:09	making similar demands."		
42:10	A. Yes.		
42:11	Q. Is that an accurate statement?		
42:12	A. Yes.		
42:13	Q. Were FMI's members among the		
42:14	recipients of the demands that you referred		
42:15	to in that sentence?		
42:16	A. Yes.		
43:07 - 43:19	Brown, Karen 2014-04-23	00:00:24	KBM.34
43:07	Q. So the question was, what was		
43:08	the demands that FMI's animal activists were		
43:09	making of FMI's members?		
43:10	A. I don't recall specifically.		
43:11	Q. Do you recall generally?		
43:12	A. No.		
43:13	Q. Were they animal welfare		
43:14	related demands?		
43:15	A. Yes.		
43:16	Q. Were they asking the members to		

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DESIGNATION	SOURCE	DURATION	ID
	43:17 provide more space, to require their		
	43:18 suppliers to provide adequate space for		
	43:19 animals, for example?		
43:21 - 43:22	Brown, Karen 2014-04-23	00:00:02	KBM.35
	43:21 THE WITNESS: I don't recall		
	43:22 specifically.		
43:24 - 43:25	Brown, Karen 2014-04-23	00:00:06	KBM.36
	43:24 Q. I'd like you to turn to the		
	43:25 exhibit that has been marked as Brown-3.		
44:08 - 44:12	Brown, Karen 2014-04-23	00:00:08	KBM.37
	44:08 Q. Did you draft this document?		
	44:09 A. Yes.		
	44:10 Q. And did you draft it in your		
	44:11 role as senior vice president of FMI?		
	44:12 A. Yes.		
45:16 - 45:19	Brown, Karen 2014-04-23	00:00:05	KBM.38
	45:16 When you drafted this		
	45:17 presentation, did you attempt to be truthful		
	45:18 and accurate?		
	45:19 A. Yes.		
48:19 - 48:25	Brown, Karen 2014-04-23	00:00:18	KBM.39
	48:19 Q. So it outlines the steps that		
	48:20 were taken in connection with the development		
	48:21 and implementation of FMI's animal welfare		
	48:22 policy and program?		
	48:23 A. Yes.		
	48:24 Q. If you turn to the next page		
	48:25 which bears the Bates number 3055 at the		
49:02 - 49:25	Brown, Karen 2014-04-23	00:01:03	KBM.40
	49:02 bottom.		
	49:03 A. Yes.		
	49:04 Q. The first bullet point on that		
	49:05 page reads, "Five of FMI's largest members		
	49:06 ask FMI to develop a policy and program to		
	49:07 address animal welfare." This is on a slide		
	49:08 that is -- bears the legend December 2000.		
	49:09 Do you see that?		
	49:10 A. Yes.		
	49:11 Q. Is that an accurate statement?		

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DESIGNATION	SOURCE	DURATION	ID
	49:12 A. Yes.		
	49:13 Q. Who were those five members,		
	49:14 Ms. Brown?		
	49:15 A. Kroger, Albertsons, Safeway,		
	49:16 Ahold, and I don't remember the fifth.		
	49:17 Q. Was the fifth one Wal-Mart?		
	49:18 A. It could have been. Wal-Mart		
	49:19 was definitely involved in our program.		
	49:20 Q. Why don't you turn back to what		
	49:21 was marked as Brown-2, the article. I'll		
	49:22 direct your attention to page 656. The first		
	49:23 full paragraph on that page. The second		
	49:24 sentence in that paragraph reads, "To this		
	49:25 end, late in 2000, the Food Marketing		
50:02 - 50:14	Brown, Karen 2014-04-23	00:00:30	KBM.41
	50:02 Institute...was asked by five member		
	50:03 companies (Ahold...; Albertsons...;		
	50:04 Kroger...; Safeway...; and Wal-Mart		
	50:05 Stores...) to develop a voluntary policy and		
	50:06 programme to address animal welfare that the		
	50:07 entire supermarket industry could embrace."		
	50:08 Does that refresh your		
	50:09 recollection as to whether Wal-Mart was the		
	50:10 fifth?		
	50:11 A. Yes.		
	50:12 Q. And these were five of FMI's		
	50:13 largest members?		
	50:14 A. Yes.		
50:19 - 50:22	Brown, Karen 2014-04-23	00:00:08	KBM.42
	50:19 Q. The bullet point says the		
	50:20 members asked FMI to develop a policy. Did		
	50:21 they come to you with that request?		
	50:22 A. Yes.		
51:03 - 51:12	Brown, Karen 2014-04-23	00:00:35	KBM.43
	51:03 Q. But what do you recall sitting		
	51:04 here today?		
	51:05 A. There was a meeting of members		
	51:06 which is not uncommon, and I was at the		
	51:07 meeting, and three of the companies'		
	51:08 representatives asked me if I would look into		

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DESIGNATION	SOURCE	DURATION	ID
	51:09 developing a policy and a program to address		
	51:10 animal welfare.		
	51:11 Q. Who were those three?		
	51:12 A. Kroger, Safeway and Albertsons.		
52:15 - 52:18	Brown, Karen 2014-04-23	00:00:08	KBM.44
	52:15 Q. Did they tell you why they were		
	52:16 interested in having FMI look into developing		
	52:17 a policy and program about animal welfare at		
	52:18 that time?		
52:21 - 52:25	Brown, Karen 2014-04-23	00:00:14	KBM.45
	52:21 They were very concerned about		
	52:22 the public media attention and the manner in		
	52:23 which it was being used against individual		
	52:24 companies in the quick serve industry.		
	52:25 Q. Were they concerned that it		
53:02 - 53:04	Brown, Karen 2014-04-23	00:00:08	KBM.46
	53:02 would be used against supermarkets like		
	53:03 themselves?		
	53:04 A. Yes.		
55:20 - 55:25	Brown, Karen 2014-04-23	00:00:23	KBM.47
	55:20 THE WITNESS: It was not		
	55:21 uncommon for the members to use the		
	55:22 trade association's expertise and help		
	55:23 in developing a response to an issue		
	55:24 that they all had to deal with. So		
	55:25 you could have an industry position		
56:02 - 56:16	Brown, Karen 2014-04-23	00:00:49	KBM.48
	56:02 and then -- so that was a very common		
	56:03 practice within the association,		
	56:04 within all associations. It's one of		
	56:05 the reasons why associations are so		
	56:06 valuable to their individual members.		
	56:07 Their members are spending their time		
	56:08 running their businesses, and the		
	56:09 association expertise in the areas of		
	56:10 public affairs and issues management		
	56:11 were very helpful, are very helpful in		
	56:12 developing a position that all of the		
	56:13 members can then use as opposed to		

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	56:14 having to go about that work		
	56:15 themselves and take that time away		
	56:16 from their business.		
57:05 - 57:09	Brown, Karen 2014-04-23	00:00:10	KBM.49
	57:05 Q. I said so is it fair to say		
	57:06 that these members were looking to FMI to		
	57:07 develop a single industry approach to the		
	57:08 animal welfare issues they were concerned		
	57:09 about?		
57:11 - 57:13	Brown, Karen 2014-04-23	00:00:08	KBM.50
	57:11 THE WITNESS: They wanted FMI to		
	57:12 work with them on developing an		
	57:13 industry position.		
58:11 - 58:16	Brown, Karen 2014-04-23	00:00:16	KBM.51
	58:11 Q. Did you have an understanding		
	58:12 as to whether these members perceived a		
	58:13 benefit to having a single industry approach		
	58:14 as opposed -- a single industry approach to		
	58:15 animal welfare as opposed to multiple		
	58:16 approaches by individual companies?		
58:18 - 59:02	Brown, Karen 2014-04-23	00:00:23	KBM.53
	58:18 THE WITNESS: The whole industry		
	58:19 benefits from that approach.		
	58:20 Certainly suppliers and producers		
	58:21 would benefit if there is a common		
	58:22 industry position on an issue that		
	58:23 affects them so directly, and,		
	58:24 therefore, they do not have to deal		
	58:25 with different requests, different		
	59:01		
	59:02 specifications on the same issue.		
60:14 - 60:17	Brown, Karen 2014-04-23	00:00:13	KBM.54
	60:14 Q. Do you have an understanding as		
	60:15 to why -- well, as to whether the produce --		
	60:16 whether the FMI's members asked FMI to reach		
	60:17 out to the producer trade associations?		
60:19 - 60:25	Brown, Karen 2014-04-23	00:00:22	KBM.55
	60:19 THE WITNESS: Part of the policy		
	60:20 was to collaborate with the producer		

KBM

DESIGNATION	SOURCE	DURATION	ID
	60:21 industry. This was an issue which		
	60:22 affected the producers directly. And		
	60:23 if FMI was going to develop a position		
	60:24 on the issue, we felt it important to		
	60:25 let our producers know what we were		
61:02 - 61:13	Brown, Karen 2014-04-23	00:00:35	KBM.56
	61:02 developing. So there was a meeting		
	61:03 that was held. It was hosted by the		
	61:04 American Meat Institute. And all of		
	61:05 the producer organizations were		
	61:06 invited to attend. And at the		
	61:07 meeting, we told them that we would be		
	61:08 developing a position, a board		
	61:09 position, that we would be developing		
	61:10 a group of animal welfare experts, and		
	61:11 that we would be collaborating with		
	61:12 them on an approach to the issue of		
	61:13 animal welfare.		
64:11 - 64:25	Brown, Karen 2014-04-23	00:00:25	KBM.57
	64:11 Q. Was the concept of coordinating		
	64:12 with producer organizations part of that		
	64:13 policy and program that you just referred to?		
	64:14 A. Yes. Yes.		
	64:15 Q. And was that policy and program		
	64:16 approved by FMI's Board of Directors?		
	64:17 A. Yes.		
	64:18 Q. And who makes up FMI's Board of		
	64:19 Directors?		
	64:20 A. It's representative of all of		
	64:21 the aspects of our membership.		
	64:22 Q. So it's FMI members --		
	64:23 A. FMI members.		
	64:24 Q. -- who sit on the board?		
	64:25 A. That's correct.		
65:02 - 65:08	Brown, Karen 2014-04-23	00:00:17	KBM.58
	65:02 Q. Let's go back to the five		
	65:03 members who approached you, approached FMI to		
	65:04 develop an animal welfare program. Did FMI's		
	65:05 other members, aside from those five, support		
	65:06 that animal welfare effort that was initiated		

KBM

DESIGNATION	SOURCE	DURATION	ID
	65:07 by those five members?		
	65:08 A. Yes.		
66:04 - 67:06	Brown, Karen 2014-04-23	00:01:18	KBM.59
	66:04 THE WITNESS: Let me clarify		
	66:05 something. FMI used several means of		
	66:06 informing its large member base of		
	66:07 what it was doing. And that was done		
	66:08 through our weekly mailings. So		
	66:09 anything that we would have been doing		
	66:10 in the area of a board policy, in the		
	66:11 area of program development,		
	66:12 educational programs, research		
	66:13 programs, issues management, all of		
	66:14 that was shared with our members on a		
	66:15 weekly basis through a weekly mailing.		
	66:16 It was also made a part of our Web		
	66:17 site, and in certain circumstances		
	66:18 there were members only sections		
	66:19 primarily because there was government		
	66:20 relations information, et cetera, that		
	66:21 each association likes to keep to		
	66:22 themselves from the standpoint of		
	66:23 strategy. But our members were fully		
	66:24 informed all the time. Did they read		
	66:25 every single word that we sent them,		
	67:01		
	67:02 probably not. But we definitely		
	67:03 informed our members on a regular		
	67:04 basis through a communication system		
	67:05 that we had developed that reached all		
	67:06 1,500 of them.		
72:21 - 72:25	Brown, Karen 2014-04-23	00:00:07	KBM.61
	72:21 Q. Ms. Brown, I'm just asking you		
	72:22 if you have an understanding sitting here		
	72:23 today as to why they wanted a single industry		
	72:24 approach?		
	72:25 A. Yes.		
73:02 - 73:02	Brown, Karen 2014-04-23	00:00:02	KBM.62
	73:02 Q. And what is that understanding?		

KBM

DESIGNATION	SOURCE	DURATION	ID
73:08 - 73:15	Brown, Karen 2014-04-23	00:00:18	KBM.63
	73:08 THE WITNESS: That they could		
	73:09 avoid having any company singled out		
	73:10 specifically by activist groups,		
	73:11 individual companies don't have to		
	73:12 duplicate efforts. And that would		
	73:13 also apply to the producer community.		
	73:14 And individual companies are not		
	73:15 leveraged by the actions of one.		
73:17 - 73:25	Brown, Karen 2014-04-23	00:00:26	KBM.64
	73:17 Q. What do you mean by that, that		
	73:18 individual companies are not leveraged by the		
	73:19 actions of one?		
	73:20 A. Company A did, if PETA comes		
	73:21 to -- which they did with the quick serve		
	73:22 industry, company A did X, you know, what are		
	73:23 you going to do about it, are you going to do		
	73:24 better, are you going to do less. Trying to		
	73:25 up the game. That is a common tactic on the		
74:02 - 74:10	Brown, Karen 2014-04-23	00:00:25	KBM.65
	74:02 part of activist organizations. That is what		
	74:03 they were trying -- that was one of the		
	74:04 things they were trying to avoid.		
	74:05 Instead, FMI dealt with the		
	74:06 activist organizations, and FMI on behalf of		
	74:07 its members, described what our position was,		
	74:08 what our policy was, and the efforts that we		
	74:09 had under way to increase the humane handling		
	74:10 for farm animals.		
74:24 - 74:25	Brown, Karen 2014-04-23	00:00:04	KBM.66
	74:24 Q. Ms. Brown, I'm going to show		
	74:25 you a document that's been marked as Brown-5.		
75:02 - 75:25	Brown, Karen 2014-04-23	00:00:54	KBM.67
 670.1	75:02 It's an e-mail chain bearing the Bates number		
	75:03 FMI-001078 to 79. My question to you is		
	75:04 whether you recognize this document?		
	75:05 A. I don't recall the document		
	75:06 specifically. I mean, I recognize it, it has		
 670.1.1	75:07 my name on it, but I don't recall the		

KBM

DESIGNATION	SOURCE	DURATION	ID
	75:08 correspondence.		
	75:09 Q. Is this an e-mail chain between		
	75:10 you and Lynn Marmer?		
	75:11 A. Uh-huh.		
	75:12 Q. Is Ms. Marmer one of the		
	75:13 individuals who attended the meeting in late		
	75:14 2000?		
	75:15 A. Yes, I already answered that.		
	75:16 Q. And she's from Kroger?		
	75:17 A. Yes, I already answered that.		
	75:18 Q. Did you receive the first		
	75:19 e-mail in the chain from Ms. Marmer on or		
	75:20 about March 20, 2002?		
	75:21 A. I have no idea. It is -- I		
	75:22 don't know. I mean, there's a date on here,		
	75:23 so I'm assuming the date is correct.		
	75:24 Q. Do you have any reason to		
	75:25 believe that you did not receive that e-mail		
76:02 - 76:07	Brown, Karen 2014-04-23	00:00:16	KBM.68
	76:02 from Ms. Marmer on or about March 20, 2002?		
	76:03 A. No.		
	76:04 Q. And did you respond to		
	76:05 Ms. Marmer as indicated in the second e-mail		
	76:06 in the chain?		
	76:07 A. That's what it says.		
78:11 - 78:25	Brown, Karen 2014-04-23	00:00:26	KBM.69
 670.1.2	78:11 Q. About halfway down her e-mail		
	78:12 she writes, I explained that there are two		
	78:13 purposes for having an industry-wide group.		
	78:14 Do you see that?		
	78:15 A. Yes.		
	78:16 Q. One of the purposes she says		
	78:17 is, "...to not allow advocacy groups to pit		
	78:18 one retailer against another..."		
	78:19 Do you see that?		
	78:20 A. Okay.		
	78:21 Q. Is that -- did you understand		
	78:22 that to be the concept that you just		
	78:23 explained to me about the concern about the		
	78:24 animal activists leveraging one company		

KBM

DESIGNATION	SOURCE	DURATION	ID
	78:25 against another I think are the words you		
79:02 - 79:09	Brown, Karen 2014-04-23	00:00:10	KBM.70
 Clear	79:02 used?		
	79:03 A. I suppose you could use all of		
	79:04 those terms.		
	79:05 Q. Did you have a different		
	79:06 understanding as to what she meant here by		
	79:07 not allowing advocacy groups to pit one		
	79:08 retailer against another?		
	79:09 A. No.		
87:19 - 87:21	Brown, Karen 2014-04-23	00:00:05	KBM.71
	87:19 Q. Did FMI form a member committee		
	87:20 related to animal welfare?		
	87:21 A. Yes.		
88:17 - 88:25	Brown, Karen 2014-04-23	00:00:21	KBM.72
	88:17 Q. So the role of the member		
	88:18 committee was to give FMI direction and		
	88:19 guidance on animal welfare issues?		
	88:20 A. React to or advise us on		
	88:21 whether we -- what we were developing was		
	88:22 going in the right direction.		
	88:23 Q. Did you have a role vis-a-vis		
	88:24 the member committee?		
	88:25 A. Yes.		
89:02 - 89:03	Brown, Karen 2014-04-23	00:00:03	KBM.73
	89:02 Q. What was that role?		
	89:03 A. I managed the committee.		
91:14 - 91:25	Brown, Karen 2014-04-23	00:00:37	KBM.74
	91:14 Q. What was the purpose of these		
	91:15 meetings?		
	91:16 A. To -- the first initial meeting		
	91:17 was to let the producer community know what		
	91:18 our approach was going to be. And there were		
	91:19 individual meetings with producer		
	91:20 organizations to talk with them specifically		
	91:21 about recommendations that were being made by		
	91:22 our expert panel. And the expert panel		
	91:23 consisted of veterinarians, animal scientists		
	91:24 and an animal welfare advocate who was not		

KBM

DESIGNATION	SOURCE	DURATION	ID
	91:25 part of any of the activist organizations.		
92:02 - 92:05	Brown, Karen 2014-04-23	00:00:07	KBM.75
	92:02 Q. Was United Egg Producers one of		
	92:03 the producer organizations with whom FMI		
	92:04 met --		
	92:05 A. Yes.		
95:02 - 95:04	Brown, Karen 2014-04-23	00:00:13	KBM.76
	95:02 Q. Did the board approve the		
	95:03 policy and program unanimously?		
	95:04 A. Yes. All 81 of them.		
96:15 - 96:25	Brown, Karen 2014-04-23	00:00:32	KBM.77
	96:15 Q. Did FMI form a panel of animal		
	96:16 welfare experts?		
	96:17 A. Yes.		
	96:18 Q. What was the role of that		
	96:19 expert panel?		
	96:20 A. That panel, since retailers and		
	96:21 certainly not the FMI staff have any		
	96:22 scientific standing to develop any specific		
	96:23 ideas about how to humanely handle farm		
	96:24 animals, part of our program was to put		
	96:25 together a panel of people who did know, and		
97:02 - 97:20	Brown, Karen 2014-04-23	00:01:18	KBM.78
	97:02 they were animal scientists and veterinarians		
	97:03 primarily.		
	97:04 Q. Did FMI and its members rely on		
	97:05 the expertise of that panel in developing		
	97:06 FMI's animal welfare program?		
	97:07 A. FMI's program was as it's		
	97:08 stated in these components, and the part of		
	97:09 that was for the experts to review the --		
	97:10 what the producer organizations had at the		
	97:11 time as far as humane handling of animals.		
	97:12 So their role was to review it, to lay that		
	97:13 against the scientific consensus at the time.		
	97:14 They were all well known, some world		
	97:15 renowned, specific expertise for each species		
	97:16 and they would review what the procedures		
	97:17 were that each producer group was using as		

KBM

DESIGNATION	SOURCE	DURATION	ID
	97:18 far as handling your animals, and they would		
	97:19 make recommendations in some cases for ways		
	97:20 to enhance or improve that.		
98:02 - 98:04	Brown, Karen 2014-04-23	00:00:11	KBM.79
	98:02 Q. Well, am I correct that at some		
	98:03 point FMI made a decision as to whether or		
	98:04 not to endorse specific producer guidelines?		
98:06 - 98:22	Brown, Karen 2014-04-23	00:00:52	KBM.80
	98:06 THE WITNESS: There's a		
	98:07 semantical issue here, and all of our		
	98:08 documents that we would send to our		
	98:09 members, the "we" is a royal we, and		
	98:10 FMI did not endorse anything		
	98:11 specifically. Our experts endorsed.		
	98:12 And if our experts endorsed it, then		
	98:13 we would say our experts have endorsed		
	98:14 it. And then the individual companies		
	98:15 could decide themselves whether or not		
	98:16 that was something that they would use		
	98:17 with their individual producers or		
	98:18 suppliers or not. But we didn't		
	98:19 develop guidelines, we didn't endorse		
	98:20 anything. Our experts endorsed. So I		
	98:21 think that's really important to		
	98:22 clarify.		
106:11 - 106:25	Brown, Karen 2014-04-23	00:00:42	KBM.81
	106:11 Q. Were the UEP guidelines for egg		
	106:12 laying hens one of the sets of industry		
	106:13 guidelines that were reviewed by FMI's expert		
	106:14 advisory panel?		
	106:15 A. Yes. And I'll tell you,		
	106:16 everyone was very impressed at how far along		
	106:17 UEP was. They were way ahead of the game.		
	106:18 They had very specific guidelines. They had		
	106:19 been working on it for some time. They had		
	106:20 their own expert panel. As a matter of fact,		
	106:21 Joy Mench who is the world renowned poultry		
	106:22 expert at UC Davis was one of our advisors		
	106:23 because we thought that she would be		
	106:24 extremely helpful to us. So, yeah, UEP had		


KBM

DESIGNATION	SOURCE	DURATION	ID
	106:25 very specific guidelines. They had guidance		
107:02 - 107:02	Brown, Karen 2014-04-23	00:00:08	KBM.82
	107:02 to their members on how to use them.		
107:03 - 107:14	Brown, Karen 2014-04-23	00:00:39	KBM.83
	107:03 Q. Do you recall whether FMI's		
	107:04 expert advisory panel identified any gaps --		
	107:05 A. Yes.		
	107:06 Q. -- in the UEP guidelines?		
	107:07 A. Yes.		
	107:08 Q. And what were those gaps that		
	107:09 were identified?		
	107:10 A. Forced molting, not feeding the		
	107:11 chickens in order to execute a forced molt.		
	107:12 Ammonia levels higher than what was required		
	107:13 by EPA for workers. Those are two that stand		
	107:14 out.		
107:15 - 107:25	Brown, Karen 2014-04-23	00:00:38	KBM.84
	107:15 Q. What about the schedule for		
	107:16 phasing in cage space requirements?		
	107:17 A. There was an interest on the		
	107:18 part of the experts in speeding that up if		
	107:19 they could. You have to understand that when		
	107:20 you get 12 chickens in a space this big,		
	107:21 space allocation becomes an issue. And it		
	107:22 becomes an issue particularly if the cages		
	107:23 are stacked one on top of the other. The		
	107:24 people on the top -- or chickens on the top		
	107:25 are okay, but as the excrement goes down, you		
108:02 - 108:10	Brown, Karen 2014-04-23	00:00:22	KBM.85
	108:02 don't want it on the bottom. So the issue of		
	108:03 space allocation in all species is an		
	108:04 important one.		
	108:05 Q. And that was important to FMI's		
	108:06 members?		
	108:07 A. It was important to FMI's		
	108:08 members from the perspective that this was an		
	108:09 issue that the animal rights organizations		
	108:10 were most specifically focusing on.		
113:03 - 113:06	Brown, Karen 2014-04-23	00:00:09	KBM.86

KBM

DESIGNATION	SOURCE	DURATION	ID
	113:03 Q. So it was important that		KBM.86
	113:04 whatever was recommended be something that		
	113:05 the producer community could actually do and		
	113:06 implement. Is that fair to say?		
113:10 - 113:22	Brown, Karen 2014-04-23	00:00:33	KBM.87
	113:10 THE WITNESS: They wanted to		
	113:11 make sure that there wasn't anything		
	113:12 that the experts would recommend that		
	113:13 would be impossible to execute or		
	113:14 would be ridiculous to execute. In		
	113:15 Europe there was a recommendation that		
	113:16 pigs be given balls to play with. We		
	113:17 don't necessarily think that pregnant		
	113:18 sows should be in a gestation crate		
	113:19 that is too small for them so they		
	113:20 can't move during their pregnancy, but		
	113:21 giving the pigs a ball maybe is going		
	113:22 too far.		
122:03 - 122:06	Brown, Karen 2014-04-23	00:00:07	KBM.88
	122:03 Q. Did FMI reach out to UEP as one		
	122:04 of the producer organizations to discuss		
	122:05 UEP's Animal Welfare Guidelines?		
	122:06 A. Yes.		
122:19 - 122:25	Brown, Karen 2014-04-23	00:00:13	KBM.89
	122:19 Q. Was there one meeting or		
	122:20 multiple meetings to talk specifically about		
	122:21 how to enhance the UEP guidelines?		
	122:22 A. There was more than one		
	122:23 meeting.		
	122:24 Q. Who from FMI attended those		
	122:25 meetings?		
123:02 - 123:11	Brown, Karen 2014-04-23	00:00:24	KBM.90
	123:02 A. It depended. Sometimes we		
	123:03 would bring in Joy Mench because these		
	123:04 were -- this was feedback from the experts.		
	123:05 Our CEO sat in on some of the meetings. Jill		
	123:06 sat in on all the meetings. Terrie Dort of		
	123:07 NCCR sat in on the meetings.		
	123:08 Q. Were you present for all of the		

KBM

DESIGNATION	SOURCE	DURATION	ID
	123:09 meetings?		
	123:10 A. I was present for all of the		
	123:11 meetings, yes.		
124:22 - 124:25	Brown, Karen 2014-04-23	00:00:13	KBM.91
	124:22 Q. Ms. Brown, do you recognize the		
	124:23 document that has been marked as Brown-8?		
 658.1	124:24 A. In the context of I see it's an		
	124:25 FMI document sent by me, yes, I recognize it.		
125:02 - 125:25	Brown, Karen 2014-04-23	00:00:52	KBM.92
	125:02 Q. And did you create this		
	125:03 document in your role as senior vice		
	125:04 president at FMI?		
 658.1.1	125:05 A. Yes.		
	125:06 Q. And is this a document that you		
	125:07 faxed to the individuals who are listed in		
	125:08 the fax to and cc columns on the front page		
	125:09 of the document?		
	125:10 A. Yes.		
	125:11 Q. Who are the individuals to whom		
	125:12 this document was faxed?		
	125:13 A. Executives with our member		
	125:14 companies.		
	125:15 Q. And was this document created		
	125:16 by you on or about August 13, 2001?		
	125:17 A. That's what it says.		
	125:18 Q. And was that when,		
	125:19 approximately when it was sent?		
	125:20 A. It would have been sent on that		
	125:21 day.		
 658.2	125:22 Q. If you can turn to the second		
	125:23 and third pages of this document which bear		
	125:24 the Bates numbers FMI-001100 through 01.		
	125:25 They're entitled FLIP CHART NOTES July 9,		
126:02 - 126:03	Brown, Karen 2014-04-23	00:00:05	KBM.93
 658.2.2	126:02 2001 - Chicago, Illinois. Do you see that?		
	126:03 A. Yes.		
127:05 - 127:25	Brown, Karen 2014-04-23	00:00:49	KBM.94
	127:05 Q. I want to direct your attention		
	127:06 to the egg laying hens portion of this		

KBM

DESIGNATION	SOURCE	DURATION	ID
 658.2.3	127:07 document. It says, "EGG LAYING HEN ISSUES."		
	127:08 A. Yes.		
	127:09 Q. And it lists multiple issues.		
	127:10 A. Yes.		
	127:11 Q. Are these the gaps that were		
	127:12 identified by the expert advisory panel that		
	127:13 FMI put together?		
	127:14 A. These would have been issues		
	127:15 that the experts thought should be improved		
	127:16 or changed.		
	127:17 Q. And I think you referred to		
	127:18 those as gaps. Is that right?		
	127:19 A. Yes. Just -- yes.		
	127:20 Q. And are these --		
	127:21 A. Gaps between their practices		
	127:22 which the experts thought were best practices		
	127:23 and those which they didn't, the experts		
	127:24 didn't feel were the best practices at the		
	127:25 time.		
132:15 - 132:25	Brown, Karen 2014-04-23	00:00:42	KBM.95
	132:15 Q. What was the concern or gap		
	132:16 identified by the expert advisory panel with		
	132:17 respect to space for egg laying hens?		
	132:18 A. They were concerned that the		
	132:19 timing needed to be pushed forward. In other		
	132:20 words, they thought that the time that the		
	132:21 industry was proposing for getting to the 72		
	132:22 minimum, I presume, needed to be enhanced.		
	132:23 Q. When you say "enhanced," you		
	132:24 mean shortened?		
	132:25 A. Sooner.		
139:09 - 139:18	Brown, Karen 2014-04-23	00:00:25	KBM.96
	139:09 Q. Were your members apprised of		
	139:10 the recommendations that, or the gaps that		
	139:11 were identified by the expert --		
	139:12 A. Yes.		
	139:13 Q. -- panel?		
	139:14 A. Yes. As I said before, we have		
	139:15 a system of communication. And this document		
	139:16 actually is sent to the members, so they		

KBM

DESIGNATION	SOURCE	DURATION	ID
	139:17 certainly were apprised of it through this.		
	139:18 Did they read UEP's guidelines? I doubt it.		
140:04 - 140:14	Brown, Karen 2014-04-23	00:00:35	KBM.97
	140:04 Q. And they also ranked those gaps		
	140:05 in order of priority. Correct?		
	140:06 A. They thought that the most		
	140:07 important gap from their perspective was the		
	140:08 one that was the most visible to the		
	140:09 consumer, their customers. And that was the		
	140:10 space allocation. And that was because it		
	140:11 was being focused on in the news media, by		
	140:12 the activists, letters they were getting from		
	140:13 PETA. That's why it became the most		
	140:14 important issue to them.		
144:19 - 144:21	Brown, Karen 2014-04-23	00:00:10	KBM.98
	144:19 Q. And the experts identified the		
	144:20 ten-year phase-in requirement for the cage		
	144:21 space requirement as unacceptable. Correct?		
144:24 - 144:25	Brown, Karen 2014-04-23	00:00:05	KBM.99
	144:24 THE WITNESS: They thought it		
	144:25 had -- it should be shortened.		
147:02 - 147:06	Brown, Karen 2014-04-23	00:00:16	KBM.100
	147:02 Q. -- did FMI communicate to UEP		
	147:03 that the ten-year proposed phase-in was not		
	147:04 acceptable to FMI's expert advisory panel?		
	147:05 A. Yes. We told them that the		
	147:06 experts thought it should be shortened.		
158:14 - 158:16	Brown, Karen 2014-04-23	00:00:04	KBM.101
	158:14 Q. I'm going to show you a		
	158:15 document that's been marked as Brown		
	158:16 Exhibit 10.		
162:06 - 162:23	Brown, Karen 2014-04-23	00:00:54	KBM.102
	162:06 Q. And that is a faster phase-in		
	162:07 than what was proposed by UEP. Correct?		
	162:08 A. They were reducing it by		
	162:09 50 percent which would have taken the ten		
	162:10 years to five, so 18 months would be --		
	162:11 Q. Even quicker. Right?		
	162:12 A. But, again, keep in mind,		

KBM

DESIGNATION	SOURCE	DURATION	ID
	162:13 PETA's objective is not having any chickens, 162:14 any cows, any pigs, any ducks ever processed 162:15 for food to be eaten by any human on the 162:16 planet. So anything that they proposed, 162:17 which was always a moving target, was going 162:18 to be almost impossible to achieve because 162:19 that's their agenda. 162:20 Q. So they wanted it to be done 162:21 tomorrow? 162:22 A. They're all vegans. Very 162:23 irritable all the time, too.		
164:10 - 164:14	Brown, Karen 2014-04-23 164:10 Q. I'm going to mark five 164:11 documents right now and just ask you a 164:12 question about all of them together, just 164:13 general question to hopefully identify them 164:14 quickly.	00:00:08	KBM.103
166:18 - 166:25	Brown, Karen 2014-04-23 166:18 Q. Ms. Brown, my first question to 166:19 you is, is each of the documents that have 166:20 just been marked as exhibits, Brown Exhibits 655.1 166:21 11 through 15, a summary, flip chart notes 683.1 166:22 summary of an animal welfare expert review 684.1 166:23 panel meeting that was prepared by you? 698.1 166:24 A. That's what they look like. 701.1 166:25 Q. And were these summaries	00:00:31	KBM.104
167:02 - 167:20	Brown, Karen 2014-04-23 167:02 created at or around the time of the meeting 167:03 identified at the top of the summary? 167:04 A. Yes. 167:05 Q. Did you attend each of these 167:06 meetings for which you created summaries? 167:07 A. Yes, as is stated on here. 167:08 Q. And was it your practice to 167:09 record accurately in these summaries what 167:10 occurred at the meetings? 167:11 A. I recorded conclusions, 167:12 accurate conclusions, accurate 167:13 recommendations, on flip charts. 167:14 Q. And did you attend these	00:00:42	KBM.105

 Clear


KBM

DESIGNATION	SOURCE	DURATION	ID
	167:15 meetings as a senior vice president of FMI?		
	167:16 A. Yes.		
	167:17 Q. And were these meetings		
	167:18 maintained as part of the regular business of		
	167:19 FMI?		
	167:20 A. Yes.		
180:18 - 180:25	Brown, Karen 2014-04-23	00:00:22	KBM.106
	180:18 Q. You did testify before that		
	180:19 avoiding market disruption was something that		
	180:20 was important to your members as your members		
	180:21 considered animal welfare programs. Correct?		
	180:22 A. They certainly don't want to		
	180:23 end up with not having products that our		
	180:24 customers want. But in other words,		
	180:25 consumers want eggs. So they certainly		
181:02 - 181:11	Brown, Karen 2014-04-23	00:00:34	KBM.107
	181:02 wouldn't want -- they would be concerned		
	181:03 about any marketplace disruption. A disease		
	181:04 wipes out all the laying hens. A tornado		
	181:05 that takes out the largest supplier's egg		
	181:06 laying operation. A salmonella recall, of		
	181:07 which there had been several. So, yeah, we		
	181:08 would be concerned about any kind of		
	181:09 marketplace disruption that is going to		
	181:10 impact the ability of our consumers to buy		
	181:11 the products that they want to buy.		
191:24 - 191:25	Brown, Karen 2014-04-23	00:00:05	KBM.108
 674.1	191:24 Q. Can you turn to the page that		
	191:25 is marked FMI-17. At the top it's entitled,		
192:02 - 192:16	Brown, Karen 2014-04-23	00:00:36	KBM.109
 674.3.1	192:02 "THE GUIDELINES," and towards the bottom		
	192:03 there's a heading for "Laying Hens."		
	192:04 A. Yes.		
	192:05 Q. I want to focus on the laying		
	192:06 hens section. The first sentence reads, "FMI		
	192:07 and NCCR recommended to their members the		
	192:08 2002 guidelines of the United Egg		
	192:09 Producers...for use with their suppliers of		
	192:10 eggs and egg products."		

KBM

DESIGNATION	SOURCE	DURATION	ID
	192:11 A. Yes.		
	192:12 Q. Is that an accurate statement?		
	192:13 A. We recommended them as best		
	192:14 practices, and if they wanted to voluntarily		
	192:15 use that individually with their suppliers,		
	192:16 that was the intent of that sentence.		
192:25 - 192:25	Brown, Karen 2014-04-23	00:00:03	KBM.110
 674.4	192:25 Q. Let's look at page 18. The		
193:02 - 193:13	Brown, Karen 2014-04-23	00:00:40	KBM.111
 674.4.1	193:02 third bullet point down that page reads, "The		
	193:03 UEP phase-in timetable for increasing the		
	193:04 space allocation per bird (67 inches for		
	193:05 White Leghorn hens; 76 inches for Brown Egg		
	193:06 Layers) has been significantly shortened and		
	193:07 a minimum standard has been added for all new		
	193:08 and remodeled laying houses."		
	193:09 Do you see that?		
	193:10 A. Yes.		
	193:11 Q. And is that an example of a gap		
	193:12 that had been identified and addressed by UEP		
 Clear	193:13 to the animal -- well, and addressed by UEP?		
193:15 - 193:15	Brown, Karen 2014-04-23	00:00:00	KBM.112
	193:15 THE WITNESS: Yes.		
194:13 - 194:17	Brown, Karen 2014-04-23	00:00:09	KBM.113
	194:13 Q. Am I correct that one of the		
	194:14 gaps that FMI's experts have identified did		
	194:15 relate to feed withdrawal molting?		
	194:16 A. Yes, that is starving the		
	194:17 chickens, true.		
194:24 - 194:25	Brown, Karen 2014-04-23	00:00:04	KBM.114
	194:24 Q. Ms. Brown, I'd like to show you		
	194:25 a document that's been marked as Brown-22.		
195:02 - 195:11	Brown, Karen 2014-04-23	00:00:39	KBM.115
 677.1	195:02 It bears the Bates FMI-2277 through 93. I'd		
	195:03 like to focus your attention on the second		
	195:04 page of this document.		
	195:05 A. Okay.		
	195:06 Q. And my question is, is this a		
 677.2	195:07 copy of the 2002 UEP guidelines that FMI and		

KBM

DESIGNATION	SOURCE	DURATION	ID
	195:08 NCCR recommended for their members as of		
	195:09 June 2002?		
 Clear	195:10 A. Yes, I presume so. They made a		
	195:11 lot of changes. They didn't always change		
195:12 - 195:12	Brown, Karen 2014-04-23	00:00:02	KBM.116
	195:12 the covers, which is understandable.		
196:05 - 196:07	Brown, Karen 2014-04-23	00:00:14	KBM.117
	196:05 Q. Ms. Brown, I want to show you		
	196:06 the next four exhibits. The first one marked		
 690.1	196:07 as Brown-23 is FMI-77 through 78. Brown-24		
196:08 - 196:08	Brown, Karen 2014-04-23	00:00:15	KBM.118
 693.1	196:08 is FMI-75. Brown-25 is FMI-76. And Brown-26		
196:09 - 196:25	Brown, Karen 2014-04-23	00:00:39	KBM.119
 697.1	196:09 is FMI-4436.		
 700.1	196:10 A. Yes.		
	196:11 Q. Do you recognize these		
	196:12 documents, Ms. Brown?		
	196:13 A. I do.		
	196:14 Q. What are they?		
 Clear	196:15 A. They are status charts on where		
	196:16 the experts were on the guidelines that they		
	196:17 were reviewing.		
	196:18 Q. And did you draft these		
	196:19 documents?		
	196:20 A. I did.		
	196:21 Q. And in drafting them, was it		
	196:22 your intent that they be truthful and		
	196:23 accurate?		
	196:24 A. Yes.		
	196:25 Q. And do the reports reflect your		
197:02 - 197:25	Brown, Karen 2014-04-23	00:01:11	KBM.120
	197:02 personal knowledge of the work on FMI's		
	197:03 animal welfare program and review of the		
	197:04 producer guidelines as of the dates they were		
	197:05 drafted?		
	197:06 A. My professional knowledge, yes.		
	197:07 Q. And did you draft these reports		
	197:08 as part of your regular business as senior		
	197:09 vice president of FMI?		

KBM

DESIGNATION	SOURCE	DURATION	ID
	197:10 A. I did.		
	197:11 Q. And were these kept in the		
	197:12 regular course of FMI's business?		
	197:13 A. Yes.		
	197:14 Q. I'd like to direct your		
	197:15 attention to the one that has been marked as		
	197:16 exhibit, it's got the Bates number 76 at the		
	197:17 bottom. I believe it's 25.		
 697.1	197:18 A. Yes.		
	197:19 Q. And the second row down is		
 697.1.1	197:20 entitled UEP or "United Egg Producers." Do		
	197:21 you see that?		
	197:22 A. Yes.		
	197:23 Q. And under "FMI-NCCR Endorsement."		
	197:24 A. Yes.		
	197:25 Q. Can you read to me what it says		
198:02 - 198:09	Brown, Karen 2014-04-23	00:00:21	KBM.121
	198:02 next to "United Egg Producers"?		
	198:03 A. "Endorsed production, handling,		
	198:04 transportation, processing and euthanasia		
	198:05 guidelines for layers of shell and breaking		
	198:06 eggs..."		
	198:07 Q. So at this point in time as of		
	198:08 March 2007 FMI and NCCR endorsed the UEP		
	198:09 guidelines. Correct?		
198:13 - 198:16	Brown, Karen 2014-04-23	00:00:16	KBM.122
 Clear	198:13 THE WITNESS: Yes, our advisors		
	198:14 endorsed it. We went through this		
	198:15 before. The FMI specifically we --		
	198:16 our advisors endorsed the guidelines.		
203:06 - 203:08	Brown, Karen 2014-04-23	00:00:10	KBM.123
	203:06 In your 2002 -- in your		
	203:07 June 2002 interim report, if you pull that		
	203:08 out again,		
203:09 - 203:11	Brown, Karen 2014-04-23	00:00:05	KBM.124
	203:09 that exhibit?		
	203:10 A. 19.		
	203:11 Q. Yes, that was marked as		
203:12 - 203:25	Brown, Karen 2014-04-23	00:00:33	KBM.125

KBM

DESIGNATION	SOURCE	DURATION	ID
 674.1	203:12 Brown-19. In that report, the -- I want to		KBM.125
	203:13 just direct your attention to the third page,		
 674.3	203:14 FMI-17, and this report was provided to all		
	203:15 of your members as well as to the public.		
	203:16 Correct?		
	203:17 A. Correct.		
	203:18 Q. In this report you wrote, "FMI		
 674.3.2	203:19 and NCCR recommend to their members the 2002		
	203:20 guidelines of the United Egg Producers...for		
	203:21 use with their suppliers for eggs and egg		
	203:22 products."		
	203:23 Do you see that?		
	203:24 A. I do.		
	203:25 Q. And that is an accurate		
204:02 - 204:03	Brown, Karen 2014-04-23	00:00:02	KBM.126
	204:02 statement. Correct?		
 Clear	204:03 A. Yes.		
207:22 - 207:25	Brown, Karen 2014-04-23	00:00:10	KBM.127
	207:22 Q. Let me show you a document		
	207:23 that's been marked as Brown-27. This is a		
 686.1	207:24 document bearing the Bates numbers FMI-1781		
	207:25 through 83.		
208:02 - 208:04	Brown, Karen 2014-04-23	00:00:08	KBM.128
	208:02 Ms. Brown, can you just take a		
	208:03 moment and review this e-mail chain and let		
	208:04 me know when you've done so.		
208:20 - 208:25	Brown, Karen 2014-04-23	00:00:14	KBM.129
	208:20 Q. Is this a series of e-mails		
	208:21 that were exchanged between you and Brian		
	208:22 Joyer on -- between July 21 and 24, 2003, in		
	208:23 the course of your work as FMI's senior vice		
	208:24 president?		
 686.2	208:25 A. I think the original e-mail		
209:02 - 209:08	Brown, Karen 2014-04-23	00:00:15	KBM.130
 686.2.1	209:02 went to Tim Hammonds and I was cc'd.		
	209:03 Q. But you were copied on all of		
	209:04 these e-mails --		
	209:05 A. Yes.		
	209:06 Q. -- you either sent or received		

KBM

DESIGNATION	SOURCE	DURATION	ID
 686.2	209:07 them in the course of your work at FMI? 209:08 A. Yes.		
212:16 - 212:25	Brown, Karen 2014-04-23 212:16 His e-mail to you, it starts on 212:17 1782. 212:18 A. Correct.	00:00:16	KBM.131
 686.2.7	212:19 Q. Says, "There are three points I 212:20 wanted to clarify." And he's got three 212:21 asterisks -- three bullet points, asterisks, 212:22 whatever you want to call them. The first 212:23 one relates to audit issues. Correct? 212:24 A. Yes. 212:25 Q. I'm not asking you about the		
213:02 - 213:10	Brown, Karen 2014-04-23 213:02 audit. 213:03 A. Okay.	00:00:19	KBM.132
 686.3  686.3.1	213:04 Q. His second question says, "What 213:05 is FMI/NCCR's position on implementing the 213:06 guidelines? Should a company allow the 213:07 marketplace to influence the amount of 213:08 products produced...or should the company 213:09 commit 100% of their products to the 213:10 guidelines regardless of the interest..."		
213:21 - 213:25	Brown, Karen 2014-04-23 213:21 Q. What did -- you answered number 213:22 2. "Our goal is enhanced animal welfare for 213:23 all animals in food production - not animals 213:24 used only for certain products or product 213:25 categories. This is our position for all	00:00:10	KBM.133
 686.1  686.1.1			
214:02 - 214:20	Brown, Karen 2014-04-23 214:02 producer groups." 214:03 A. That's true. 214:04 Q. That was indeed your position? 214:05 A. Yes. 214:06 Q. Why was that FMI's position? 214:07 A. Because all animals, what 214:08 difference does it make what product they're 214:09 going to be. They're all animals who are in 214:10 a system which needed to be improved	00:00:59	KBM.134
 Clear			

KBM

DESIGNATION	SOURCE	DURATION	ID
	214:11 significantly. So if I'm a chicken whose		
	214:12 eggs are going into this product versus a		
	214:13 chicken whose eggs are going into that		
	214:14 product, why should that make any difference		
	214:15 as to how I'm handled as an animal. Why		
	214:16 should I be less humanely handled because of		
	214:17 what product I end up in, if I understand the		
	214:18 question. So if you come back as an animal,		
	214:19 you better make sure what kind you come back		
	214:20 as.		
215:07 - 215:25	Brown, Karen 2014-04-23	00:01:02	KBM.135
	215:07 Q. I've marked as Brown-28 a		
	215:08 document bearing the Bates FMI-3090 through		
	215:09 91.		
 695.1	215:10 Ms. Brown, do you recognize		
	215:11 this as an e-mail conversation between you		
	215:12 and Gene Gregory that you sent and received		
 695.1.1	215:13 on or about May 20 -- May 2, 2003, May 2 to		
	215:14 3, 2003, in the course of your work at FMI?		
	215:15 A. That's what it looks like.		
	215:16 Q. Let's focus on the first e-mail		
 695.1.3	215:17 in the chain which is from Gene to you and		
	215:18 Terrie Dort. Do you see that?		
	215:19 A. Yes.		
 695.1	215:20 Q. Gene wrote to you that there		
	215:21 was a program that would implement a rule		
 695.1.4	215:22 that instead -- I'm at the very bottom of		
	215:23 page 1 where he says, Instead of implementing		
	215:24 animal welfare guidelines on 100% of their		
 695.2.1	215:25 egg-production houses, they would simply		
216:02 - 216:25	Brown, Karen 2014-04-23	00:01:01	KBM.136
	216:02 implement the guidelines on only the number		
	216:03 of hens it needed to fill a customer needs.		
	216:04 Do you see that?		
	216:05 A. Yes.		
 695.2.2	216:06 Q. And then he says, "Should this		
	216:07 group seek to receive the endorsement of		
	216:08 either FMI or NCCR, we would hope that you		
	216:09 would respond by only endorsing UEP's		
	216:10 guidelines for egg-laying hens."		

KBM

DESIGNATION	SOURCE	DURATION	ID
	216:11 Do you see that?		
	216:12 A. Yes.		
	216:13 Q. And then your response, you		
 695.1.2	216:14 wrote, "On the second issue -- we have no		
	216:15 intention to endorse a second set of		
	216:16 guidelines for laying hens that are weaker		
	216:17 than the UEP guidelines."		
	216:18 Do you see that?		
	216:19 A. Yes.		
	216:20 Q. What do you mean by that?		
 Clear	216:21 A. We were involved in a process		
	216:22 of making progressive changes to a system		
	216:23 that needed some significant changes. And we		
	216:24 were not interested in anything that would be		
	216:25 regressive. So if the guidelines were going		
217:02 - 217:07	Brown, Karen 2014-04-23	00:00:23	KBM.137
	217:02 to be weaker than UEP, which was the floor,		
	217:03 then that would be regressive.		
	217:04 Q. And did FMI consider guidelines		
	217:05 that were required to be implemented on less		
	217:06 than 100 percent of production houses to be		
	217:07 weaker than the UEP guidelines?		
217:11 - 217:25	Brown, Karen 2014-04-23	00:00:51	KBM.138
	217:11 THE WITNESS: We did not get		
	217:12 into the issue of whether or not it		
	217:13 should be -- there's a difference		
	217:14 between -- if you mean 100 percent of		
	217:15 the houses for egg laying hens whose		
	217:16 products, whose eggs were going to be		
	217:17 divided into two different channels,		
	217:18 for example, shell eggs going in		
	217:19 cartons for consumers in the		
	217:20 supermarket or breaking eggs that were		
	217:21 going to be sold to Kraft and General		
	217:22 Foods and the people who use eggs in		
	217:23 their manufacturing product, and the		
	217:24 animals whose eggs were going into		
	217:25 shell eggs and those were the animals		
218:02 - 218:15	Brown, Karen 2014-04-23	00:00:44	KBM.139
	218:02 whose handling was going to follow the		

KBM

DESIGNATION	SOURCE	DURATION	ID
	218:03 UEP guidelines, and the other animals		
	218:04 whose eggs were going into		
	218:05 manufactured product, those animals'		
	218:06 handling was not going to be following		
	218:07 the UEP guidelines, that was a concept		
	218:08 that we would not agree with. That		
	218:09 gets back to the point of how we		
	218:10 handle the animal, how humanely we		
	218:11 handle the animal depends upon where		
	218:12 the end product ends up. That we did		
	218:13 not think was humane. So if that's		
	218:14 the context in which you're talking,		
	218:15 then that would be my response. It		
218:16 - 218:16	Brown, Karen 2014-04-23	00:00:02	KBM.140
	218:16 doesn't seem fair to the animals.		
231:23 - 232:11	Brown, Karen 2014-04-23	00:00:26	KBM.141
	231:23 Q. Do you know whether on an		
	231:24 ongoing basis, so we talked about how in the		
	231:25 initial endorsement was of the 2002 UEP		
	232:01		
	232:02 guidelines, do you remember that?		
	232:03 A. With exceptions.		
	232:04 Q. Yeah, right. With the		
	232:05 exceptions noted. And eventually the		
	232:06 endorsement status on that chart got to the		
	232:07 point where there were no exceptions.		
	232:08 Correct?		
	232:09 A. For UEP.		
	232:10 Q. For UEP, yes. Is that correct?		
	232:11 A. Correct.		
251:12 - 251:20	Brown, Karen 2014-04-23	00:00:34	KBM.143
	251:12 Q. Was UEP ever -- did UEP ever		
	251:13 communicate to you that it would prefer to		
	251:14 maintain control of any audits using their		
	251:15 Animal Welfare Guidelines?		
	251:16 A. They definitely felt strongly		
	251:17 about doing their own audit.		
	251:18 Q. Did they ever tell you that the		
	251:19 reason for that was so they could enforce		
	251:20 compliance with the UEP Certified Program?		

KBM

DESIGNATION	SOURCE	DURATION	ID
251:22 - 251:22	Brown, Karen 2014-04-23 251:22 THE WITNESS: They may have.	00:00:01	KBM.144
251:23 - 252:03	Brown, Karen 2014-04-23 251:23 BY MR. WILDERS: 251:24 Q. And did UEP ever tell you that 251:25 they were using the Animal Welfare Guidelines 252:01 252:02 as a supply and management tool among their 252:03 members?	00:00:11	KBM.145
252:06 - 252:07	Brown, Karen 2014-04-23 252:06 THE WITNESS: I never heard 252:07 anything like that.	00:00:02	KBM.146
252:09 - 252:13	Brown, Karen 2014-04-23 252:09 Q. Did UEP ever disclose to you 252:10 that their goal with the Animal Welfare 252:11 Program was to develop a certified program 252:12 that would increase egg prices in the U.S. 252:13 market?	00:00:12	KBM.147
252:16 - 252:17	Brown, Karen 2014-04-23 252:16 THE WITNESS: I personally did 252:17 not have any conversations like that.	00:00:03	KBM.148
252:19 - 252:23	Brown, Karen 2014-04-23 252:19 Q. If UEP had told you that they 252:20 were using the Animal Welfare Guidelines to 252:21 reduce supply or increase price, would that 252:22 have impacted FMI's review of the UEP 252:23 guidelines?	00:00:13	KBM.149
252:25 - 253:03	Brown, Karen 2014-04-23 252:25 THE WITNESS: It certainly would 253:01 253:02 have impacted our relationship and 253:03 conversations with UEP.	00:00:04	KBM.150
260:11 - 263:15	Brown, Karen 2014-04-23  P338.1.4 260:11 Q. Let me hand you Exhibit 34. 260:12 Can you identify this as a document -- an  P338.1.1 260:13 e-mail you wrote on August 22, 2003, to Gene 260:14 Gregory? 260:15 A. Yes.	00:03:19	KBM.151

KBM

DESIGNATION	SOURCE	DURATION	ID
 P338.1	260:16 Q. Is this a true and accurate 260:17 copy of the e-mail you wrote on that date? 260:18 A. It seems to be. 260:19 Q. Is this something you kept in 260:20 the ordinary course of business at FMI? 260:21 A. Yes. 260:22 Q. Let's move down to the first		
 P338.1.2	260:23 e-mail in that train, that e-mail chain from 260:24 Gene Gregory. It says, Karen, Just to keep 260:25 you informed: Albertsons is now bidding 261:01 261:02 their egg business out all across the 261:03 country. This will likely result in a 261:04 competitive situation that lowers our 261:05 producers' prices. Albertsons has also 261:06 required the Animal Care Certified Program up 261:07 to this point but refused to pay the 261:08 additional costs for the program. They are 261:09 now saying to some bidders that they don't 261:10 have to be on the Animal Care program. I 261:11 believe Albertsons was one of your leaders 261:12 and a member of your committee that called 261:13 for the establishment of guidelines. 261:14 "If other retailers follow this 261:15 direction, it could have a major negative 261:16 impact upon our guidelines." 261:17 Do you see that? 261:18 A. I do. 261:19 Q. What did you understand Mr. 261:20 Gregory to be communicating to you here? 261:21 A. Something he shouldn't have.		
 P338.1.3	261:22 My response was, "Gene -- these are terms of 261:23 trade between retailers and their suppliers. 261:24 It is not appropriate information to be 261:25 shared or discussed with trade associations. 262:01 262:02 Please do not send me this type of 262:03 information. Thank you, Karen." 262:04 Q. Did you receive a response from 262:05 Mr. Gregory? 262:06 A. Not that I'm aware of.		

KBM

DESIGNATION	SOURCE	DURATION	ID
 Clear	<p>262:07 Q. And did -- is that true, that</p> <p>262:08 FMI members were free to negotiate prices</p> <p>262:09 with their suppliers?</p> <p>262:10 A. We didn't get involved in any</p> <p>262:11 of that. That's their business and that's</p> <p>262:12 not our business. Those are as stated,</p> <p>262:13 individual terms of trade between retailers</p> <p>262:14 and suppliers and not an area that's</p> <p>262:15 appropriate at all for a trade association to</p> <p>262:16 be involved.</p> <p>262:17 Q. And when you talk about terms</p> <p>262:18 of the trade, what types of things does terms</p> <p>262:19 of trade encompass?</p> <p>262:20 A. Well, if you're a retailer,</p> <p>262:21 you're going to be buying products from the</p> <p>262:22 supplier and you have certain terms that you</p> <p>262:23 would require and the supplier has certain</p> <p>262:24 terms that they require in order to make a</p> <p>262:25 sale.</p> <p>263:01</p> <p>263:02 Q. And if a retailer was</p> <p>263:03 negotiating the purchase of eggs from a</p> <p>263:04 supplier, and they decided that they wanted</p> <p>263:05 eggs that were consistent with the animal</p> <p>263:06 welfare best practices, but the supplier</p> <p>263:07 produced other eggs that were not consistent</p> <p>263:08 with the animal welfare best practices, was</p> <p>263:09 the retailer free to buy eggs from that</p> <p>263:10 supplier?</p> <p>263:11 A. FMI would have nothing to do</p> <p>263:12 with that. We wouldn't have that kind of</p> <p>263:13 conversation and we would not be involved in</p> <p>263:14 anything that goes on between the buyer and</p> <p>263:15 seller.</p>		
265:10 - 265:11	Brown, Karen 2014-04-23	00:00:05	KBM.152
	<p>265:10 Q. Let me hand you another e-mail</p> <p>265:11 that's been marked Brown Exhibit 35. Is this</p>		
265:12 - 265:25	Brown, Karen 2014-04-23	00:00:33	KBM.153
 P860.1.2	<p>265:12 an e-mail from, at least the first e-mail</p> <p>265:13 from Tim Hammonds to you on May 20, 2004?</p>		

KBM

DESIGNATION	SOURCE	DURATION	ID
 P860.1.1	<p>265:14 A. Yes, that's what it looks like.</p> <p>265:15 Q. Does this appear to be a true</p> <p>265:16 and correct copy of e-mail correspondence</p> <p>265:17 that he sent to you on that date?</p> <p>265:18 A. I presume so.</p>		
 P860.1	<p>265:19 Q. Is this an e-mail that you</p> <p>265:20 would have kept in your file as an ordinary</p> <p>265:21 business record?</p> <p>265:22 A. Yes.</p> <p>265:23 Q. And kept in the ordinary course</p> <p>265:24 of business?</p> <p>265:25 A. Right. Yes.</p>		
266:11 - 268:16	Brown, Karen 2014-04-23	00:02:22	KBM.154
 P860.1.3	<p>266:11 Q. So if we look at the very first</p> <p>266:12 e-mail on May 20, 2004, from</p> <p>266:13 karenconrad@unitedegg.com to Tim Hammonds.</p> <p>266:14 Do you see that?</p> <p>266:15 A. I see that.</p> <p>266:16 Q. Do you know who Karen Conrad</p> <p>266:17 was?</p> <p>266:18 A. I don't remember.</p> <p>266:19 Q. It reads, "Hi Tim, Thanks for</p> <p>266:20 meeting with Gene and I last week."</p> <p>266:21 It says, "UEP produces a</p> <p>266:22 newsletter for its members called 'United</p> <p>266:23 Voices'. It is a bi-monthly publication that</p> <p>266:24 is mailed out, put out on our website and</p> <p>266:25 sent via email to our members.</p> <p>267:01</p> <p>267:02 "Would you be willing to write</p> <p>267:03 a short (1/2 page) article for us relating to</p> <p>267:04 why producers should 'stay the course' and</p> <p>267:05 continue to provide leadership and support</p> <p>267:06 for UEP's Animal Care Certified program?</p> <p>267:07 Also something regarding the continued use of</p> <p>267:08 the seal on our egg cartons for informing</p> <p>267:09 customers."</p> <p>267:10 Did I read that correctly?</p> <p>267:11 A. Yes.</p>		
 P860.2.1	<p>267:05 continue to provide leadership and support</p> <p>267:06 for UEP's Animal Care Certified program?</p> <p>267:07 Also something regarding the continued use of</p> <p>267:08 the seal on our egg cartons for informing</p> <p>267:09 customers."</p> <p>267:10 Did I read that correctly?</p> <p>267:11 A. Yes.</p>		
 P860.1	<p>267:12 Q. What did you understand -- let</p>		

KBM

DESIGNATION	SOURCE	DURATION	ID
 P860.1.4	267:13 me back up.		
	267:14 Mr. Hammonds then forwarded the		
	267:15 e-mail to you on the same day, May 20, 2004,		
	267:16 didn't he?		
	267:17 A. Yes, I see that.		
 P860.1.5	267:18 Q. What did you understand United		
	267:19 Egg to be asking here?		
	267:20 A. Well, my response was "We can		
	267:21 draft something saying we appreciate their		
	267:22 efforts and support of their customers....,"		
	267:23 meaning retailers, "...but we can't tell them		
	267:24 to 'stay the course' [implied pressure] or		
	267:25 'endorse' their labeling program. I am happy		
	268:01		
	268:02 to draft something. It would be best if it		
 Clear	268:03 was signed by you and Terrie."		
	268:04 Q. What did you -- what did you		
	268:05 mean when you wrote "implied pressure"?		
	268:06 A. Well, pressuring them to go in		
	268:07 a certain direction.		
	268:08 Q. What do you mean pressure --		
	268:09 when you say "them," do you mean the egg		
	268:10 producers, the members of UEP?		
	268:11 A. Yes.		
	268:12 Q. So you understood United Egg		
270:05 - 270:13	268:13 Producers to be asking FMI to write something		
	268:14 to pressure the producers to stay on or join		
	268:15 the Animal Care Certified Program of UEP?		
	268:16 A. Correct.		
	Brown, Karen 2014-04-23	00:00:26	KBM.155
	270:05 Q. Did FMI ever endorse the UEP		
	270:06 certified label?		
	270:07 A. No.		
	270:08 Q. So the testimony you've been		
	270:09 giving about, you know, FMI Scientific		
270:16 - 270:21	270:10 Committee reviewing, potentially endorsing		
	270:11 some of the Animal Welfare Guidelines, did		
	270:12 that relate to the guidelines themselves or		
	270:13 the guidelines and the UEP certified label?		
	Brown, Karen 2014-04-23	00:00:18	KBM.156

KBM

DESIGNATION	SOURCE	DURATION	ID
	270:16 THE WITNESS: That related only 270:17 to the guidelines. It was our belief 270:18 that industry devising its own label 270:19 for a program that it developed and 270:20 then audited itself had a lot of 270:21 issues regarding credibility.		KBM.156
271:04 - 271:05	Brown, Karen 2014-04-23 271:04 Q. Let me hand you another e-mail 271:05 from Mr. Gregory to you that I'm marking	00:00:06	KBM.157
271:06 - 272:02	Brown, Karen 2014-04-23 271:06 Brown-36. Is this an e-mail that you 271:07 received from Mr. Gregory on October 18, 271:08 2004? 271:09 A. It appears so. 271:10 Q. And does it appear to be a true 271:11 and accurate copy of the communication he 271:12 sent to you on that date? 271:13 A. Yes. 271:14 Q. And is this an e-mail that you 271:15 would have kept in the ordinary course of 271:16 business while at FMI? 271:17 A. Yes. 271:18 Q. Mr. Gregory -- and this e-mail 271:19 on October 18, 2004, Mr. Gregory writes, 271:20 "Karen, The egg industry is now experiencing 271:21 severe low egg prices. Prices far below the 271:22 costs of production." Let's just stop right 271:23 there for a second. 271:24 Do you think that was an 271:25 appropriate message for Mr. Gregory to be 272:01 272:02 sending to you at FMI?	00:00:51	KBM.158
 P861.1.6			
 P861.1.1			
 P861.1.2			
272:05 - 272:05	Brown, Karen 2014-04-23 272:05 THE WITNESS: -- I do not.	00:00:01	KBM.159
275:03 - 276:03	Brown, Karen 2014-04-23 275:03 Q. He also goes on to write in the 275:04 sixth paragraph, sixth paragraph, "We are 275:05 also hearing from some of your members that 275:06 they are no longer requiring Animal Care	00:01:22	KBM.160
 P861.1.3			

KBM

DESIGNATION	SOURCE	DURATION	ID
 P861.1	275:07	Certified eggs so you may be losing some of	
	275:08	your member support for the program that we	
	275:09	all worked on for so long and hard."	
	275:10	What did you understand him to	
	275:11	be communicating to you there?	
	275:12	A. Make their problem our problem.	
	275:13	Q. What do you mean by "their	
	275:14	problem"?	
	275:15	A. FMI had no role in what was	
	275:16	going on within UEP's membership as regard to	
	275:17	these issues mentioned in this e-mail.	
	275:18	Q. And did you, after receiving	
	275:19	this letter, do anything to, as he puts it,	
	275:20	provide in keeping your members committed to	
	275:21	the program?	
	275:22	A. Probably not.	
	275:23	Q. And while you were at FMI, did	
	275:24	you take any action to try to force members	
	275:25	into only buying eggs consistent with the UEP	
	276:01		
	276:02	Certified Program?	
	276:03	A. Never.	
276:12 - 276:18	Brown, Karen 2014-04-23	00:00:14	KBM.161
 P861.1.4	276:12	Q. The last paragraph, third to	
	276:13	the last paragraph here says, second	
	276:14	sentence, "I think it is critically important	
	276:15	that we work together to keep this good	
	276:16	program going. Any message from you that we	
	276:17	could convey to our members would certainly	
	276:18	help."	
284:19 - 284:22	Brown, Karen 2014-04-23	00:00:10	KBM.162
 Clear	284:19	Q. And does that refresh your	
	284:20	recollection as to what you understood the	
	284:21	100 percent rule to mean while you were at	
	284:22	FMI?	
284:25 - 284:25	Brown, Karen 2014-04-23	00:00:01	KBM.163
	284:25	THE WITNESS: I understood that	
285:02 - 285:25	Brown, Karen 2014-04-23	00:01:26	KBM.164
	285:02	there was a sector or -- of the UEP	

KBM

DESIGNATION	SOURCE	DURATION	ID
	285:03 membership or there were some		
	285:04 companies within the UEP membership		
	285:05 that wanted to determine which of		
	285:06 their animals were humanely treated		
	285:07 according to the guidelines based on		
	285:08 what were the egg ended up. And the		
	285:09 way I understood it was that shell		
	285:10 eggs which go in cartons for consumers		
	285:11 to buy were the eggs that some		
	285:12 companies that were in the business of		
	285:13 two kinds of egg laying operations		
	285:14 wanted those eggs to be under the UEP		
	285:15 program. Those animals. Animals who		
	285:16 were laying eggs for breaking		
	285:17 operation which were basically going		
	285:18 to end up in products manufactured by		
	285:19 other companies such as cereal		
	285:20 companies or cookie companies, et		
	285:21 cetera, that those animals did not --		
	285:22 they did not want them to be under the		
	285:23 UEP guidelines. They did not want		
	285:24 them to be handled as humanely under		
	285:25 the UEP guidelines. That's what I		
286:02 - 286:04	Brown, Karen 2014-04-23	00:00:08	KBM.165
	286:02 understand the 100 percent rule to be.		
	286:03 I just didn't understand it as a		
	286:04 separate term.		
306:08 - 306:25	Brown, Karen 2014-04-23	00:01:04	KBM.166
	306:08 Q. In general terms, what was the		
	306:09 goal of FMI's membership in initiating this		
	306:10 process with respect to animal welfare?		
	306:11 A. The primary goal, because they		
	306:12 knew that consumers were looking to them --		
	306:13 the retailer is very visible and very		
	306:14 accessible to the general public. There is		
	306:15 no way that really they can run and hide.		
	306:16 People are in their stores every day and they		
	306:17 hear from their customers on a daily basis		
	306:18 about what it is they like and what they		
	306:19 don't like. When issues become priority		

KBM

DESIGNATION	SOURCE	DURATION	ID
	306:20 issues because of media and other public		
	306:21 attention to it, the retailer hears about it,		
	306:22 and within that context, the retailer's goal		
	306:23 with animal welfare was to assure that		
	306:24 animals in the agriculture system used as		
	306:25 food would be raised, transported and		
307:02 - 307:03	Brown, Karen 2014-04-23	00:00:07	KBM.167
	307:02 processed in a safe manner that was free from		
	307:03 abuse and neglect.		
323:08 - 323:15	Brown, Karen 2014-04-23	00:00:25	KBM.168
	323:08 Q. Did you ever inform UEP that		
	323:09 you were supporting efforts to reduce the		
	323:10 domestic flock size for egg laying hens?		
	323:11 A. We would never have made that		
	323:12 kind of a statement. I'd be fired.		
	323:13 Q. Are you aware of whether any		
	323:14 FMI members ever made any statements to that		
	323:15 effect?		
323:17 - 324:23	Brown, Karen 2014-04-23	00:01:32	KBM.169
	323:17 THE WITNESS: I'm not aware of		
	323:18 any such statements.		
	323:19 BY MR. RANDALL:		
	323:20 Q. Did you ever inform FMI's		
	323:21 membership that the UEP guidelines would lead		
	323:22 to a reduction in the domestic flock of egg		
	323:23 laying hens?		
	323:24 A. I don't recall ever doing that		
	323:25 myself. I don't recall. I mean, I -- it		
	324:01		
	324:02 would be highly unusual for me to do that.		
	324:03 Q. If you had done so, would you		
	324:04 have done that in writing?		
	324:05 A. I hope not.		
	324:06 MR. GREEN: You might want to		
	324:07 clarify that.		
	324:08 THE WITNESS: I meant that as a		
	324:09 joke. Only within the context of all		
	324:10 the pieces of paper I see here where I		
	324:11 wouldn't have written those things.		
	324:12 No, I would not have done that. I		

KBM

DESIGNATION	SOURCE	DURATION	ID
	324:13 would not have made that statement to		
	324:14 our members directly and I would not		
	324:15 have put it in writing.		
	324:16 BY MR. RANDALL:		
	324:17 Q. Did you intend to encourage the		
	324:18 egg producers to reduce the domestic flock of		
	324:19 egg laying hens?		
	324:20 A. No.		
	324:21 Q. Do you believe anything that		
	324:22 you said or that FMI said to UEP could be		
	324:23 construed as encouraging that?		
325:03 - 325:10	Brown, Karen 2014-04-23	00:00:19	KBM.170
	325:03 THE WITNESS: No. All we were		
	325:04 talking to UEP about was their		
	325:05 guidelines as analyzed by our expert		
	325:06 advisory committee and what the expert		
	325:07 advisory committee's recommendations		
	325:08 were to the UEP in the areas where		
	325:09 they needed to improve them and the		
	325:10 areas where they had done a good job.		
326:08 - 326:14	Brown, Karen 2014-04-23	00:00:25	KBM.171
	326:08 Q. With that in mind, did you		
	326:09 ever -- did you or FMI ever endorse the		
	326:10 100 percent rule?		
	326:11 A. Not to my knowledge. We		
	326:12 endorsed their -- our experts endorsed their		
	326:13 guidelines. We did not get into endorsing		
	326:14 the execution of their program.		
327:02 - 327:04	Brown, Karen 2014-04-23	00:00:06	KBM.172
	327:02 Q. Are you aware of any of FMI's		
	327:03 members ever endorsing the 100 percent rule?		
	327:04 A. Not that I'm aware of.		
329:14 - 329:17	Brown, Karen 2014-04-23	00:00:13	KBM.173
	329:14 Q. Now, were you aware that UEP		
	329:15 and UEP members coordinated at various times		
	329:16 joint efforts to reduce their flock sizes by		
	329:17 5 percent?		
329:18 - 329:18	Brown, Karen 2014-04-23	00:00:01	KBM.174
	329:18 A. Absolutely not.		

KBM

DESIGNATION	SOURCE	DURATION	ID
329:21 - 329:23	Brown, Karen 2014-04-23 329:21 Q. Did you ever endorse that 329:22 practice? 329:23 A. No.	00:00:03	KBM.175
331:14 - 331:19	Brown, Karen 2014-04-23 331:14 Q. What is forced molting? 331:15 A. You starve the chicken so that 331:16 it will lay eggs faster. 331:17 Q. Do you believe that forced 331:18 molting is consistent with animal welfare? 331:19 A. No.	00:00:12	KBM.176

Defense	00:53:36
Plaintiff	00:16:18
TOTAL RUN TIME	01:09:55



Documents linked to video:

655
 658
 670
 674
 677
 683
 684
 686
 690
 693
 695
 697
 698
 700
 701
 P338
 P860
 P861